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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,179	11/11/2003	Thomas H. Barth	03151371	4648

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EXAMINER

D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/705,179	Applicant(s) BARTH ET AL.	
	Examiner Stephen D'Adamo	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

The disclosure includes a 1st shell portion 11 having a 1st surface 12 and a 2nd shell portion 15 having a 2nd surface 16. However, from the drawings, it is assumed that 15 is the 1st shell portion and 11 is the 1st surface while 12 (and 13) are referenced for the 2nd shell portion and the 2nd surface is not shown. Furthermore, the disclosure (page 3, line 2) recites “first and second shell support flanges 20 and 21,” yet reference 21 is shown as an opening.

Appropriate correction is required.

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: second surface 16, opening 25 (understood to be opening 21), pad 35, harness 36 and openings 37. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 3636

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference 13 and reference 21. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "20 " and "15" have both been used to designate support flange in Figure 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 3636

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "21" has been used to designate both support flanges and openings.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to because the disclosure and the references in the drawing do not correspond. The disclosure includes a 1st shell portion 11 having a 1st surface 12 and a 2nd shell portion 15 having a 2nd surface 16. However, from the drawings, it is assumed that 15 is the 1st shell portion and 11 is the 1st surface while 12 (and 13) are referenced for the 2nd shell portion and the 2nd surface is not shown. . Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets

Art Unit: 3636

may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the term "shell-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "shell-like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burleigh (6,382,722) in view of Sebel (4,341,419).

Art Unit: 3636

Burleigh discloses a child safety seat that can be used with an aircraft passenger seat comprising a one-piece, shell-like body 10 having a first, upwardly extending shell portion 18 defining a first surface shaped to support a child's upper body part and a second shell portion 12 extending downwardly from the first shell portion, which has a second surface to support a child's lower body part, as seen in Figures 1 and 8. Integral support flanges 16 extend upwardly and outwardly from the first and second support surfaces to provide support against lateral movement of a child's body as seen in Figures 2 and 9. First and second side walls 16 are formed integrally with the first and second shell support flanges and extend outwardly and downwardly. Openings 20 are extended through the second wall side wall at a preselected distance away from the first child support surface, and can enable an aircraft safety belt to be passed through to secure the shell to an aircraft seat as seen in Figure 1 and 2. Burleigh also includes a restraint harness 30 and 32, which is mounted on the shell through opening as seen in Figures 8 and 9. However, Burleigh fails to expressly disclose that the support flanges are at an obtuse angle with respect to the support surfaces and that the side walls form an acute angle with respect to the support flanges. Yet, Sebel teaches of stackable chairs including support flanges 19 and 20. The side walls merge into the armrests 8 and 9 which, "are each rolled over outwardly to form downwardly opening troughs 23 and 24 respectively" (col.3, lines 15-16). As seen in Figure 5, "the armrests are directed outwardly from the seat at a small angle [obtuse angle relative to the seat surface]" (col.3, lines 10-12). Sebel further teaches that two chairs are stacked above one another and, "the armrests of the lower chair are aligned with the corresponding troughs 23 and 24 of the upper chair"

Art Unit: 3636

(col.3, lines 52-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the support flanges and side walls of Burleigh with an obtuse and acute angle, as seen in Figure 5 of Sebel, for enabling two child safety chairs to be stacked one above another.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burleigh (6,382,722) in view of Sebel (4,341,419) and in further view of Perdelwitz, Jr. et al. (4,891,454).

Burleigh and Sebel have been described above. Burleigh and Sebel show all of the teachings of the claimed invention. However, both Burleigh and Sebel fail to expressly disclose a cushion that is held in place by the restraint harness. Perdelwitz, Jr. discloses a cushion 20 that is located on the first and second surfaces and is held in position by a restraint harness 38 as seen in Figures 1-3 (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the child seat of Burleigh and Sebel, with a cushion as shown by Perdelwitz, Jr. in order to provide a disposable cushion for the child seat.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoolahan (5,957,537) in view of Burleigh (6,382,722) and Sebel (4,341,419).

Hoolahan discloses a restraining device for children including a child seat that can be used with an aircraft passenger seat comprising a one-piece, shell-like body 34 having a first, upwardly extending shell portion defining a first surface shaped to support a child's upper body part and a second shell portion extending downwardly from the first shell portion, which has a second surface to support a child's lower body part, as seen in Figure 5. Integral support flanges extend upwardly and outwardly from the first and

second support surfaces to provide support against lateral movement of a child's body. First and second side walls are formed integrally with the first and second shell support flanges and extend outwardly and downwardly. Hoolahan also includes a restraint harness 30 and 32, which is mounted on the shell through opening. Furthermore, a cushion 36 is located on the first and second surfaces and is held in position by a restraint harness 38, also seen in Figure 5.

However, Hoolahan fails to expressly disclose that the support flanges are at an obtuse angle with respect to the support surfaces and that the side walls form an acute angle with respect to the support flanges. Yet, Sebel teaches of stackable chairs including support flanges 19 and 20. The side walls merge into the armrests 8 and 9 which, "are each rolled over outwardly to form downwardly opening troughs 23 and 24 respectively" (col.3, lines 15-16). As seen in Figure 5, "the armrests are directed outwardly from the seat at a small angle [obtuse angle relative to the seat surface]" (col.3, lines 10-12). Sebel further teaches that two chairs are stacked above one another and, "the armrests of the lower chair are aligned with the corresponding troughs 23 and 24 of the upper chair" (col.3, lines 52-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the support flanges and side walls of Hoolahan with an obtuse and acute angle, as seen in Figure 5 of Sebel, for enabling two child safety chairs to be stacked one above another.

Hoolahan also fails to expressly disclose opening extending through the side walls. Yet, Burleigh teaches of a one-piece, shell-like child safety seat including openings 20 extended through the second wall side wall at a preselected distance away from a first

Art Unit: 3636

child support surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the child seat of Hoolahan with opening 20, as taught by Burleigh, for enabling an aircraft safety belt to be passed through to secure the shell to an aircraft seat.

Response to Arguments

8. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dlugos (6,676,213), Schwartz (6,179,382), Foster, Jr. (4,743,063) and Gamon (3,335,434) all show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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December 6, 2004



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